

APPROVED: Meeting No. 14-96

ATTEST: *Paula S. Jewell*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 09-96

March 11, 1996

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on March 11, 1996, at 7:30 p.m.

PRESENT

Mayor Rose G. Krasnow

Councilmember Robert E. Dorsey

Councilmember James T. Marrinan

Councilmember Glennon J. Harrison

Councilmember Robert J. Wright

In attendance: City Manager Rick Kuckkahn, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: City Manager's Report

1. The headline group for this year's Hometown Holidays celebration will be Three Dog Night, a group popular during the 1970s with fourteen gold albums, nine gold singles; seven of which were Number One on the charts. Some of their biggest hits included "Easy To Be Hard," "Mamma Told Me Not To Come," "Joy To The World," and "Old Fashioned Love Song." John Cafferty and the Beaver Brown Band, best known for their recording of the music soundtrack for Eddie and The Cruisers in the 1980s, will be opening for Three Dog Night. In keeping with Hometown Holidays tradition, the headliner for Sunday's concert will be the National Chamber Orchestra. The kickoff breakfast for sponsors of Hometown Holidays will be March 23 at Glenview Mansion.

Sponsorship openings are still available and interested businesses should contact Special Events Coordinator Chris Heckhaus at 309-3337.

2. The F. Scott Fitzgerald Centennial Committee has been working on a variety of events to celebrate the 100th birthday of F. Scott Fitzgerald. In addition to gearing the regular array of City events with a special F. Scott Fitzgerald flavor, there will be many other events including a Great Gatsby picnic in June, theater presentations and a grand celebration in September. On March 15, a Great Gatsby film presentation will be shown at the Rockville Senior Center at 8 p.m., and will include a question and answer period by Dr. Jackson Bryer, Professor of English at the University of Maryland and President of the F. Scott Fitzgerald Society. A second film presentation, "Tender Is The Night" will be shown on March 29.

3. On March 12, the Mayor, City representatives and Rockville's State Delegation will present the City's proposals for obtaining State bond bill funding for the Frederick Avenue Bridge and construction work on the Theatre lobby and Glenview Mansion. The efforts of the State legislators and the support of the neighborhoods involved have been significant.

4. On March 16, the Mayor and Council will conduct its first Walking Town Meeting in the Twinbrook area. The Mayor and Council will meet members of the community at the Twinbrook Library at 10 a.m. and will conduct a walk along a predetermined route.

5. The City's third procurement workshop is scheduled for March 13 at 5:30 p.m. at City Hall and will focus on how companies can best do business with the City.

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6. On March 6, the developers of the King Farm presented their Conceptual Planned Development (CPD) to the Planning Commission. The Commission will continue their discussion on March 27, and in the meantime, a variety of reports related to environmental concerns will be made available. The Natural Resources inventory is currently available and the City's response to the storm water management component of the Plan will be available on March 15. Anyone interested in the Conceptual Planned Development document or related reports should call Community Development Director Neal Herst. Consideration is being given to a request to continue the March 18 public hearing to April 15 in order to ensure that the community and Planning Commission have ample opportunity for a thorough review of the project.

7. The City received a number of concerns related to repairing damage caused by snow plows. The City's crew supervisors will be surveying the City to identify areas that have been damaged and persons are encouraged to call 309-3010 to report additional damage to yards or other areas around their homes so that the City can make repairs this Spring.

Re: Presentation by Girl Scout
Service Unit #2 in Rockville.

Nicole Bates (Senior Troop #741) presented the Promise Pledge of the Girl Scouts to Mayor Krasnow, who said that since she had been a member of the Girl Scouts, this would actually be a renewal of her pledge. Miss Bates talked about the 1996 cookie fundraiser and encouraged everyone to vote on their favorite Girl Scout cookie flavor. Miss Bates accompanied by Elizabeth Fisher (Daisy Troop #760), Kristen May (Girl Scout Brownie Troop #1239), Eileen LeFurgy (Junior Troop #2219), Caitlin Karlson (Cadette

Troop #2319), then passed out cookies to the Mayor and Council and audience. Senior Advisor Jim Bates from Troop #741 and other Scout leaders accompanied the Girl Scouts.

Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. Bill Meyer, 804 Leverton Road urged the Mayor and Council to continue the CPD public hearing to the April date. He said that he attended the Planning Commission meeting and no recommendation from the Planning Commission on the CPD was forthcoming due to the lack of information. He said even if the report from City staff was available on March 15, there was not adequate time to make a reasonable analysis. He also said that the Planning Commission failed to get to a Text Amendment which was key to the CPD, that dealt with changes of the parking requirements on a CPD with a transitway running through it.

Re: Appointments

Upon motion of Councilmember Harrison, duly seconded and unanimously passed, Brenda Stovall was appointed to serve on the Human Rights Commission.

Upon motion of Councilmember Wright, duly seconded and unanimously passed, Eileen Rabson was appointed to serve on the Senior Citizens Commission.

Re: Consent Agenda

Councilmember Marrinan requested removal of Consent Agenda Item D. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

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(A) Approval of Recommendation by the Recreation and Park Advisory Board and the Historic District Commission to name the grounds of the Beall Dawson House as "Beall Dawson Historic Park."

(B) Award of Contract to Montgomery County Public Schools
In the amount of: \$50,650

For: Bus transportation for the City's Summer Camp and Summer Playgrounds programs.

(C) Award of Bid #56-96
To: F.O. Day Co., Inc. Paving Company
In the amount of: \$278,000

For: Smoothseal program. Adequate funds are available to cover the cost in 420-850-3A10 and 420-850-8C11.

Re: (D) - Award of Bid #59-96
To: Dustin Construction
Of: Gaithersburg, MD
In the amount of: \$483,680

For: Renovations to the F. Scott Fitzgerald Theatre.

Councilmember Marrinan requested removal of the item in order to compliment staff for showing good judgement and not automatically accepting the lowest bid. The lowest bidder did not have the experience and background, nor did their references check out. In addition, the second lowest bidder entered into negotiations with the City and the City was able to reduce that bid in excess of \$80,000. Mr. Marrinan said staff's actions were an example of how the negotiations and bidding process in a contract situation should work.

Mayor Krasnow asked about the timing of the project in relation to the number of on-going F. Scott Fitzgerald Centennial activities; she said the Mayor and Council needed to be assured that the work would be completed prior to mid-September. Recreation and Parks Director Burt Hall said the contractor informed staff that the project would be completed by September 1st; the company, Dustin Construction, was a competent construction company and had performed many school renovations and other commercial jobs, and he said staff was confident with the contractor's work and that they would be able to complete the project by September 1.

Mayor Krasnow noted the list of deletions and alternate elements of the proposal which resulted in the amount of the project that the City was able to afford. She asked if any of the alternates substantively affected the final product. Mr. Hall said that staff worked hard to decide which of the deducts and alternates to accept, and decided not to accept any of the alternates for budget purposes. He said that staff felt that the alternates and deducts being awarded were in the best interest of the projects, and they would continue to look carefully at the alternates during the project and would, if necessary, initiate change-orders. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Bid #59-96 was awarded to Dustin Construction.

Re: Redgate Golf Course 1996-97
Fee Authorization.

Mr. Hall explained that the Redgate Golf Course was run as a special revenue operation that covered all of its operating costs, contributed to its own CIP fund, and was competitively priced with other public courses in Montgomery County. Mr. Hall said that the 1996-97 Redgate Golf Course proposed fee met four vital criteria; covered all

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operating expenses; contributed to the course's CIP fund; maintained parity with other public courses; and continued Redgate's exceptional conditioning mission. The proposal is to raise daily fees by an average of 50 cents per nine holes. Some fees are adjusted by an additional 25 to 50 cents per nine holes to maintain consistent percentage differentials between resident and non-resident rates and in response to market pressures. Fees charged to passholders are adjusted by 5%--a corresponding percentage amount. The fee proposal is endorsed by the Golf Course Advisory Committee, the Recreation and Park Advisory Board, the City's golf professional and staff. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, staff's recommendation for 1996-97 Redgate Golf Course fees was approved.

Re: Rockville Municipal Swim
Center 1996-97 Fee
Authorization.

Mr. Hall noted the presence of Swim Center Advisory Subcommittee Chairperson Terry Baker and the Swim Center Superintendent Mark Eldridge. Mr. Hall explained that the Swim Center offered annual memberships good from May 1 through April 30 each year. Other plans offered included summer memberships and a ticket for 25 admissions. The 1996-97 year marked the sixth year of the City's successful daily admission fees program. With the goals of boosting participation by Rockville residents, selling more memberships and increasing participation in swim center programs, staff recommended that no fee increases be made in the coming year. Rockville residents will continue to pay membership fees which are 12 percent lower than non-resident fees. Residents will also continue to receive a \$1.00 discount off of daily admission rates.

Mr. Hall said that staff was pursuing a number of revenue enhancements while holding the line on costs. The ideas include group discounts for neighborhoods, more effective use of pool space to maximize services, and the promotion of corporate memberships.

Councilmember Marrinan said he recently learned that the County heavily subsidized their operating costs compared to the City whose costs were fully paid for fees charged. Mr. Marrinan expressed concern about the long range viability of the City's municipal pool when competing with the subsidized County pools. He asked whether the City could maintain the level of service if the County continued their current policy of subsidizing operating costs. Mr. Kuckkahn and Mr. Hall both agreed that new growth as the City developed over the next ten years would bolster and support the pool. Mr. Hall said that since the City's pool facility was far superior than most in the area, more people would be attracted to it. In addition, one major debt for building the north indoor pool would be paid off in approximately four fiscal years, which, Hall said, would also help. Upon motion of Councilmember Wright, duly seconded and unanimously passed, the Municipal Swim Center 1996-97 Fee Authorization, reflecting no increase, was approved.

Re: Adoption of Resolution to
establish voluntary rent increase
guideline for 1996-1997 of
2.3%.

Resolution No. 2-96

Assistant Chief of Economic Development Ed Duffy said that in June 1987, the Mayor and Council enacted Chapter 18, Article V, Section 18-194 of the "Rockville City Code" which established voluntary rent guidelines for apartment complexes

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containing eight or more units. The legislation also required that the Mayor and Council adopt annual voluntary rent guidelines. Each year, the Landlord-Tenant Office evaluate current rental data and recommend a maximum percentage rate for rental increase to the Mayor and Council. Mr. Duffy explained that the Resolution establishes a voluntary rent increase guideline at 2.3 percent for the coming 12 months.

Councilmember Dorsey inquired how the recommendation was promoted among the City's landlords and tenants. Mr. Duffy said when the Resolution was passed, every licensed multi-family rental operator would be contacted explaining the guideline. Notices were also placed in Rockville Reports and a landlord-tenant brochure insert notifying tenants of the adopted rent guidelines, would be distributed by the City's housing inspectors.

Councilmember Marrinan noted that in the material provided, a percentage of the different rent hikes was given. He asked about the numbers which exceeded 4 percent rent hikes--22 percent above the recommended guideline of 2.3 percent. Mr. Marrinan said that some rates, especially those over 6 percent seemed high. Mr. Duffy said that historically, 7.5 percent was the trigger that established when the City would make inquiries of the landlord's rates. When the program was begun, 12 percent increases were not unusual, and the City decided to establish a 7.5 trigger. Mr. Marrinan said in light of low inflation rates nationally and locally, a number less than 7.5 percent should be the trigger for following up with landlords. Mr. Duffy agreed and said that the City would immediately evaluate what a lower trigger, should be. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Resolution

establishing voluntary rent increase guideline for 1996-1997 at 2.3% was adopted. A copy of Resolution No. 2-96 may be found in Resolution Book No. 11 of the Mayor and Council.

Re: Discussion and instruction to staff on proposed Bell Atlantic Nynex Monopole at Redgate Golf Course.

Instructions regarding proceeding with contract negotiations for land lease.

Mr. Hall explained that the City received a proposal from Bell Atlantic Nynex to locate a monopole on the grounds of the Redgate Golf Course, adjacent to Avery Road. Mr. Hall noted representatives from Bell Atlantic Nynex who were present to answer questions. Mr. Hall summarized the report and said that the proposal called for leasing a 3600 square foot parcel of land for the construction of a 180-foot monopole with an accompanying equipment building used for transmitting and receiving signals for cellular mobile telephone service. The land lease agreement, as drafted, called for the leasing of the parcel for an initial period of five years. It is proposed that the fees of \$23,000 per year would be paid to the Redgate Golf Course Fund. After the initial five year term, Bell Atlantic Nynex would have the option of extending the agreement for three additional five-year terms and the annual fee for the second five year period would increase by 15 percent each year. Mr. Hall said that the site appeared to be compatible with existing uses in the surrounding area and met or exceeded all of the guidelines and requirements proposed by the Cellular Telecommunication Report currently under consideration by the Mayor and Council.

Councilmember Wright questioned the 15 percent fee increase after five years; he said the area of monopoles was a newly emerging area and he asked if the City was bound to the 15 percent increase or were there provisions for opening up discussions after five years. Mr. Kuckkahn said that the flexibility for this could be included in the contract.

Councilmember Harrison questioned who would be responsible for putting the site back into shape if within five years, Bell Atlantic decided to no longer use the site. Mr. Hall said under the contract terms negotiated to date, Bell Atlantic would be completely responsible for removing the structure and facility and restoring the site to its original condition as much as possible, including the replanting of trees to replace those that were removed.

Councilmember Marrinan questioned where the funds would ultimately be placed in the budget and he asked that with subsequent sitings, what fund should be the recipient of the fees--the property, e.g., the Golf Course, or the City's general revenue fund with a percentage of the fees going into the property. Mr. Kuckkahn said that the legal issue regarding the type of flexibility the City had in allocating the funds would need to be looked into. Mr. Hall introduced M. G. Diamond from Bell Atlantic Nynex's general counsel's office.

Councilmember Harrison expressed concern about the type of fencing barriers (e.g., razor wire atop the fencing) that would be used to surround the monopole and facility on public land around the City. He encouraged Bell Atlantic Nynex to explore other, more attractive options for fencing.

Mayor Krasnow asked that in terms of collocation, how would other carrier antennas be located on the pole. Mr. Diamond explained that the triangular platforms on the monopole actually held the antenna and other carrier antennas would be located below those of Bell Atlantic's. Councilmember Marrinan asked if the fee paid to the City was affected by collocation. Mr. Diamond responded that the City stood to make additional revenue from a collocation through a ground lease, although it was possible that a collocater might need an additional structure. Mr. Diamond also said that Bell Atlantic Nynex planned to build the monopole to a height so that if another carrier wanted to locate on the tower, they would be able to do so. Bell Atlantic Nynex submitted to the City Attorney a provision for the lease that specifically addressed collocators so that the City can get the additional rent from users needing ground space. The Mayor and Council discussed how the Telecommunications Act of 1996 will impact the City's power to regulate monopoles in the public right-of-way and leasing fees. Staff, in addition to the Council of Governments and National League of Cities will continue to review the Telecommunications Act. Staff was instructed to proceed with contract negotiations on the lease and incorporate the Mayor and Council's concerns about the amount of rent after the initial five year period; where the money is going in terms of the City's budget; address the issue of the height of the monopole proposed for Redgate in terms of possible collocators, how to fence off the structure without using razor wiring, and ensure that language is included that incorporates a suitable time line for removal of the structure in the event the monopole is abandoned.

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Re: FYI/Correspondence

1. Councilmember Wright explained that he had missed the last two Mayor and Council meetings because he was in Youngstown, Ohio when his mother who suddenly took ill, was hospitalized, and passed away from surgery complications. Mr. Wright thanked everyone who expressed their condolences.

2. Councilmember Marrinan mentioned that over the past weekend, all the members of the Council attended the annual meeting of the National League of Cities (NLC) in Washington, D.C. He said that he serves on the Human Development Steering Committee which addressed health care, housing and welfare issues. He pointed out that one general session focused on the upcoming Presidential Election and how most of the candidates had not addressed the issues which would have a major impact on cities and towns, e.g., the impact of deficit reduction, tax reform, public safety strategies and the flat tax issue which would cause the tax exempt status of municipal bonds to be removed and would increase the costs of running local government. NLC has decided to raise these issues to candidates in the upcoming Presidential and Congressional elections.

Councilmember Harrison noted that he serves on the Transportation Steering Committee and he concurred with Mr. Marrinan's concerns. He said that there were a number of issues that the Presidential and Congressional candidates have not discussed and how they intend to vote on the issues. Mr. Harrison agreed that the issues should be raised, possibly by letter in order to seek answers, specifically on deficit reduction which was a Number One priority with cities.

3. Mayor Krasnow said that the Central Processing 6-month trial period expired and she said that central processing was continuing at the Seven Locks site while it was being evaluated. Mr. Kuckkahn said that at the end of a 10-month period, the County would have to request a continuance of the program or cease the operation. The Mayor and Council asked for an update on the issue.

Mayor Krasnow pointed out an item in the FYI Report about the C & O Canal clean-up. Rockville donated manpower and equipment to help clear the canal which suffered great damage in the floods following the January blizzard. Ms. Krasnow said she joined the crew at Edwards Ferry and spoke to the Park Rangers who were pleased that Rockville donated the two-day effort to the clean-up. Ms. Krasnow thanked members of the City's Recreation and Parks Department and expressed appreciation to John Hayes and Steve Mader for developing the idea.

Mayor Krasnow noted that Terry Treschuk, serving as Acting Director of the Community Services Department, reported on various department events. She said that she was impressed with the number of programs the department handled--the Holiday Drive, a new Homework Club at Beall Elementary, the SHOP program, the STEP/TEEN program, and the Rockville Emergency Assistance Program. Mayor Krasnow thanked the staff members of the Community Services Department for their all of their efforts.

Re: New Business

1. Mayor Krasnow attended the charity gala sponsored by the Elks Club. The purpose of the charity is to disburse funds the Elks raised throughout the year, to charitable organizations. Ms. Krasnow said that four Rockville schools received donations

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and a \$2,000 check was presented to Community Ministries of Rockville. Mayor Krasnow thanked the Elks for their efforts in disbursing more than \$24,000.

2. Councilmember Dorsey said that on March 10, he, Mrs. Dorsey, and several residents from Rockville, participated in a WETA fundraiser telethon, "Friends of the Library."

Re: Adjournment

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, with Mayor Krasnow, Councilmembers Dorsey, Harrison, Marrinan and Wright voting "aye", the Mayor and Council adjourned to Executive Session at 9:05 p.m., pursuant to Section 10-508(a)(7) and 10-508(a)(1)(ii) of the State Government Article, Annotated Code of Maryland, to consult with counsel to obtain legal advice and to discuss a personnel matter.